



MINUTES

City Of Scottsdale

JUDICIAL APPOINTMENTS ADVISORY BOARD

Regular Meeting

6:00 p.m., Thursday, March 24, 2011

Human Resources Pinnacle Training Room

7575 E. Main Street

- PRESENT:** Paul Rybarsyk, Chair
Donald Alvarez, Vice Chair
Judge Jean Hoag
Francis Scanlon
Kenneth Weingarten
- ABSENT:** Dr. Ira Ehrlich
Judge John Rea
- STAFF:** Valerie Wegner
Judy Dewey
Jay Osborn
Sherry Scott, Deputy City Attorney
Terry Welker, Interim Executive Director of HR
- OTHERS:** Janet Cornell, Court Administrator
Judge Jim Blake
Judge B. Monte Morgan

CALL TO ORDER

The meeting was called to order at 6:05 p.m.

ROLL CALL

A formal roll call confirmed the presence of a quorum as noted above.

- 1. APPROVAL OF MINUTES OF PUBLIC MEETING CONDUCTED ON JANUARY 27, 2011**

CHAIR RYBARSYK MOVED TO APPROVE THE MINUTES OF THE JANUARY 27, 2011 PUBLIC MEETING. BOARD MEMBER SCANLON SECONDED. THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ZERO (0). BOARD MEMBER EHRLICH AND JUDGE REA WERE ABSENT.

2. DISCUSSION OF JUDICIAL SURVEY RESULTS ON ASSOCIATE CITY JUDGE OREST JEJNA

Vice Chair Alvarez said he was impressed by the quality and depth of the survey. Chair Rybarsyk commented on the better rate of return this year. Ms. Wegner reported that the last time Judge Jejna came up for reappointment the return rate was 14%, while 18% responded this time. Judge Jejna's high ratings in all categories were noted.

3. PREPARATION FOR PUBLIC HEARING

Chair Rybarsyk explained that the public would be given an opportunity during the meeting to make comments about Judge Jejna, and ask questions about the process. Ms. Wegner noted that she received a written comment from a citizen in response to the call for public comments, which was entered into the record. Each board member was provided a copy.

The Board recessed at approximately 6:15 p.m. in anticipation of the public hearing which was advertised to begin at 6:30 p.m.

4. CONVENE PUBLIC HEARING AT 6:30 P.M.

Chair Rybarsyk called the meeting back to order at 6:30 p.m. and invited public comments on the reappointment of Judge Jejna.

Court Administrator Janet Cornell expressed her support for the reappointment of Judge Jejna. She said he has been with the Court for a number of years, is a dedicated judge who takes his work seriously, and is a colleague to Court staff.

Chair Rybarsyk noted that Judge Jejna was involved in 10,700 cases, 50 jury trials, and 200 bench trials. He asked how this caseload compared to that of other judges. Ms. Cornell said the number sounded reasonable, though she could not verify it without knowing the exact period in question. In any given year the Court has over 80 jury trials. Ms. Wegner noted that the data Judge Jejna referred to was from his last four years of service.

Chair Rybarsyk inquired whether there have been any complaints about Judge Jejna's management of the calendar. Does he get things done in a timely fashion? Do cases take excessively long? Ms. Cornell said no formal complaints have come her way. She noted that the length of all cases is impacted by the techniques and tactics of the lawyers litigating. Chair Rybarsyk asked whether cases are backlogged in his court. Ms. Cornell responded that all of the Court's work is getting backlogged because there is one judge fewer than normal.

Judge Blake recommended Judge Jejna's retention. He commented that he has known Judge Jejna for 27 years, since he was a defense attorney. He has all the qualities of an excellent judge. He knows the law and keeps current on it. He listens to both sides to make sure all parties have their say. When he returns a verdict, he does so without any bias. He further commented on Judge Jejna high ethical standards.

Judge Morgan said Judge Jejna has been a top performer in Scottsdale's Court. He has years of legal and judicial training. He is a compassionate, competent, patient judge

who understands the issues. He has handled the courtroom in contentious situations with ease while maintaining a good disposition.

Judge Morgan also requested that JAAB make a recommendation to City Council that they return to the judicial appointment schedule followed previously, where judges were initially appointed to one two-year term, followed by a second two-year term, and then four-year appointments from that point on. He reported that the Court is currently on schedule for two jury trials per month, while the rest are bench trials. Judges see about 5,000 people per year. With one less judge available, an experienced judge is integral to maintaining the respect of the City Court.

Vice Chair Alvarez inquired about the methods judges use to keep up with the calendar, given the circumstances. Judge Morgan responded that the Court staff is very supportive and well trained. Judges do everything possible to encourage resolution of cases within 180 days. Adjudication rates remain above 100%. Judges have to double up, occasionally taking another judge's overflow during their own breaks, and covering each others' vacation times. This effort reduces the Court's reliance on pro tems. The budget situation in Scottsdale is as big a problem for the Court as anyone else. An experienced judge knows how to get cases processed as quickly as possible without compromising justice.

Judge Morgan stated that the current situation in Scottsdale regarding judicial retention and appointment is very serious. The JAAB is very important to the integrity and independence of the Court, and to the judges who know they have to go through this very awkward process. The process is having a chilling effect on the judges, and the City has to return to reappointing judges based on their competency.

Board Member Scanlon inquired about the effort to save the City \$1 million by employing electronic monitoring instead of sending people to the County Jail. Judge Morgan responded that the program became effective October 1, and to date, the City has saved \$830,000. More importantly, the home detention program offers the ability to change behavior. In response to a further inquiry from Board Member Scanlon, Judge Morgan said home detention is used only for DUI offenses.

Board Member Weingarten said the attorneys that he talked to during the due diligence process are of the opinion that Scottsdale sets the standard for municipal courts.

5. MOTION TO RECESS INTO EXECUTIVE SESSION (ARS §§ 38-431.03A.2 & A.3)

VICE CHAIR ALVAREZ MOVED TO RECESS INTO EXECUTIVE SESSION. BOARD MEMBER WEINGARTEN SECONDED. THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ZERO (0). BOARD MEMBER EHRLICH AND JUDGE REA WERE ABSENT.

6. DISCUSS QUESTIONS FOR INTERVIEW OF JUDGE JEJNA

The public meeting recommenced at 7:29 p.m. Chair Rybarsyk asked whether the Board had any questions to ask of Judge Jejna. Judge Hoag said all of her questions have been answered. Vice Chair Alvarez stated his intention was to ask about Judge Jejna's method of handling a crowded court calendar.

7. INTERVIEW OF JUDGE JEJNA

Judge Jejna said he is looking forward to another term to represent the Court. This last term has been a learning experience, but constant learning is a philosophy he follows in life, and he applies it to everything he does.

Vice Chair Alvarez stated that clients are always anxious about the time it takes to get their matters resolved in court. He queried how Judge Jejna handles calendar issues that are pressing down on the Court, given the recent budget cuts and the increased filings. Judge Jejna responded that judges try to find spots in their calendar to take assignments from other divisions. Additionally, he typically spends a block of time on Wednesdays to handle preliminary matters. Because of the number of cases that have come in, he has to find additional slots during the week to take on more hearings. Every available slot is filled with something. He said he finds it to be a little more work, but not a burden, since he enjoys what he does. It is a challenge to handle the workload, but after all his years in the job he has become adept at it. Occasionally it inconveniences the other parties, but they have come to understand that the Court is down one division.

Chair Rybarsyk inquired how often pro tems are used. Judge Jejna said extra pro tems are not being used right now because of the budget crunch. That is unlikely to change in the short term.

Judge Jejna said he hopes he has served the City of Scottsdale well and looks forward to continuing to serve the community.

8. MOTION TO RECESS INTO EXECUTIVE SESSION (ARS §§ 38-431.03A.2 & A.3)

The Board opted not to enter into a second executive session.

9. DISCUSSION OF AND REAPPOINTMENT RECOMMENDATION REGARDING JUDGE JEJNA

Judge Hoag said she enthusiastically supports Judge Jejna's retention.

JUDGE HOAG MOVED TO RECOMMEND REAPPOINTMENT OF JUDGE JEJNA. VICE CHAIR ALVAREZ SECONDED. THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ZERO (0). BOARD MEMBER EHRLICH AND JUDGE REA WERE ABSENT.

Chair Rybarsyk welcomed suggestions for the letter to City Council conveying the Board's recommendation. Judge Hoag felt that the letter should emphasize that Judge Jejna's scores were not only acceptable, but outstanding. His reputation in the community is commendable, his ethics unimpeachable, and he is an outstanding example of the judiciary.

Ms. Wegner noted that this year, Council expects somebody from the JAAB to present the recommendation at the Council meeting. The Board's letter would be included with the Council action report. Chair Rybarsyk suggested that the Board also send a representative to meet individually with Council Members to back up the recommendation in person. Vice Chair Alvarez volunteered to present the recommendation at the Council meeting, and to conduct the individual meetings with council members. Judge Hoag also volunteered for the Council presentation.

JUDGE HOAG NOMINATED VICE CHAIR ALVAREZ TO REPRESENT THE JAAB IN THE INDIVIDUAL MEETINGS WITH CITY COUNCIL TO DISCUSS JUDGE JEJNA'S REAPPOINTMENT RECOMMENDATION. BOARD MEMBER SCANLON SECONDED. THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ZERO (0). BOARD MEMBER EHRLICH AND JUDGE REA WERE ABSENT.

VICE CHAIR ALVAREZ MOVED THAT VICE CHAIR ALVAREZ AND BOARD MEMBER HOAG APPEAR BEFORE COUNCIL ON BEHALF OF THE JAAB AT THE CITY COUNCIL MEETING TO DECIDE ON THE REAPPOINTMENT OF JUDGE JEJNA. JUDGE HOAG SECONDED. THE MOTION CARRIED UNANIMOUSLY BY A VOTE OF FIVE (5) TO ZERO (0). BOARD MEMBER EHRLICH AND JUDGE REA WERE ABSENT.

Mr. Welker suggested that the representatives present quantitative data from the surveys to Council. Chair Rybarsyk agreed, saying that there should be no reason a judge with such high grades is turned down. Mr. Welker said he would accompany Vice Chair Alvarez on the individual meetings to answer questions on the recruitment retention process. From an HR perspective, unless there is a compelling reason not to reappoint a judge, it would send a bad message to the legal community and hamper subsequent recruitment efforts if Council rejected the reappointment. Political instability makes it very difficult to recruit good candidates.

Judge Hoag said scores as high as Judge Jejna's are rarely encountered. He is making the community happy with his performance. Mr. Welker suggested emphasizing that part of the reason that Scottsdale's court system enjoys such favorable ratings is because of judges like Judge Jejna.

10. FUTURE AGENDA ITEMS

Ms. Wegner noted that the next meetings are scheduled for April 21 and June 2.

Chair Rybarsyk suggested an agenda item in the near future to discuss a recommendation that City Council return to four-year terms for judges. Two-year terms simply make no sense.

Board Member Weingarten also requested an agenda item regarding the possibility of using online surveys in an effort to get a higher response rate.

Ms. Wegner acknowledged that this would be Mr. Osborn's last meeting as the legal advisor to the Board, and thanked him for his service.

ADJOURNMENT

With no further business to discuss, being duly moved and seconded, the meeting of the Judicial Appointments Advisory Board adjourned at 8:05 p.m.

Respectfully submitted,
Valerie Wegner
HR Office Coordination Manager

Reviewed by,
Paul Rybarsyk
JAAB Chairperson